

No. 12-56723

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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JIMMY ELIAS KARAM, Individually and on  
Behalf of All Others Similarly Situated,  
*Plaintiff,*

– and –

STICHTING PENSIOENFONDS METAAL EN TECHNIEK; WYOMING  
RETIREMENT SYSTEM, on behalf of themselves and all  
others similarly situated,  
*Plaintiffs-Appellants,*

vs.

CORINTHIAN COLLEGES, INC.; JACK D. MASSIMINO; PETER C.  
WALLER; MATTHEW A. OUIMET; KENNETH ORD,  
*Defendants-Appellees.*

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Appeal from the United States District Court  
for the Central District of California  
No. 2:10-cv-06523-GHK(PJWx)  
The Honorable George H. King

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NOTICE PURSUANT TO FRAP RULE 12.1 THAT THE DISTRICT COURT  
HAS STATED THAT PLAINTIFFS HAVE RAISED A SUBSTANTIAL ISSUE;  
MOTION TO VACATE OCTOBER 10, 2014 ARGUMENT DATE AND  
REMAND THE MATTER TO THE DISTRICT COURT

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Lead Counsel for Plaintiffs-Appellants

*Karam, et al. v. Corinthian Colleges, Inc.*  
Ninth Circuit No. 12-56723

**CORPORATE DISCLOSURE STATEMENT**

Appellant, Stichting Pensioenfonds Metaal en Techniek, is an independent pension fund established under the laws of the Kingdom of the Netherlands. It is not a “corporate party,” does not issue stock, and is not controlled by any publicly held corporation.

Appellant, Wyoming Retirement System, is not a “corporate party,” does not issue stock, and is not controlled by any publicly held corporation.

s/Andrew S. Love  
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ANDREW S. LOVE

This securities fraud case is pending on appeal in this Court with oral argument scheduled for October 10, 2014. On July 30, 2014, plaintiffs filed in the district court an *Ex Parte* Application Requesting the Court to Indicate It Would Entertain a Rule 60(b) motion. (Attached as Exhibit A) The application was based on stunning new revelations which substantiate plaintiffs' claims of appellee Corinthian's widespread misconduct and have ultimately resulted in a landmark agreement between Corinthian and the U.S. Department of Education in which Corinthian has agreed to sell or close all of its schools. Plaintiffs argued in the *ex parte* application that these new developments, together with the previously pled allegations, would have satisfied the district court's concern whether Corinthian's misconduct was isolated or widespread and thereby provided the requisite inferences of falsity and scienter that the district court previously found lacking in dismissing the complaint.

On August 12, 2014, the district court issued an order stating that plaintiffs' motion raises "'substantial issue[s]' that cannot be decided in a summary fashion" and that "[t]hese issues should be fully briefed before we can decide any 60(b) Motion." (Exhibit B) The court concluded that "if the Ninth Circuit remands for this purpose, we would entertain Plaintiffs' 60(b) Motion." (*Id.*)

Rule 12.1(b) of the Federal Rules of Appellate Procedure provides that "[i]f the district court states that . . . the motion raises a substantial issue, the court of appeals

may remand for further proceedings but retains jurisdiction unless it expressly dismisses the appeal.”

Accordingly, appellants request that this Court vacate the oral argument date and remand the case to the district court so it may entertain plaintiffs’ Rule 60(b) motion.

Counsel for appellees were advised of this motion and stated that they “expect to oppose the motion, but will make a definitive determination after [they] receive it and have had an opportunity to consider it.”

DATED: August 14, 2014

ROBBINS GELLER RUDMAN  
& DOWD LLP  
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Lead Counsel for Plaintiffs-Appellants

DECLARATION OF SERVICE

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and employed in the City and County of San Francisco, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is Post Montgomery Center, One Montgomery Street, Suite 1800, San Francisco, California 94104.

2. I hereby certify that on August 14, 2014, I electronically filed the foregoing document: **NOTICE PURSUANT TO FRAP RULE 12.1 THAT THE DISTRICT COURT HAS STATED THAT PLAINTIFFS HAVE RAISED A SUBSTANTIAL ISSUE; MOTION TO VACATE OCTOBER 10, 2014 ARGUMENT DATE AND REMAND THE MATTER TO THE DISTRICT COURT** with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

3. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on August 14, 2014, at San Francisco, California.

s/Anna M. Ceballos  
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ANNA M. CEBALLOS